C. F. 71 & 72—70,000—14-7-30

C.F. 71 & 72.

1931

Department of L & R Secty

OFFICE BR — Rev

STATION Madras

File No. 504

Dated 12.2.31

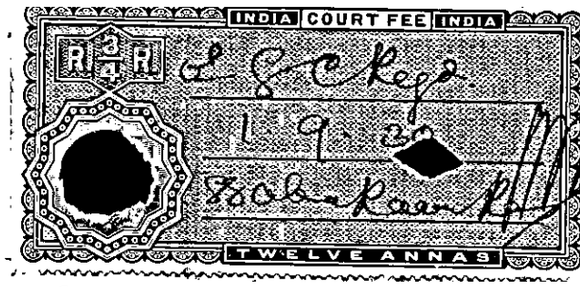
B5761/31

To whom sent	Date	Initials
	Given for copying	
	Copied	
	Examined	
	Signed	
	Given for despatch	
	Despatched	
Pages in the file	Indexed	
	To be destroyed on*	

(SUBJECT)

Encroachment Land (8 Kanams) Ledges
Hosdl village R S-nos 63/8 & 18 — Encroachment
Cancellation Orders passed

Not to be filled in in the case of permanent records.



1.9.30

The Collector of

South Kanara.

Humble petition of the ----
Villagers of Hosal Village,
Udipi Taluk. Dated the 30.8.30

Honoured Sir,

Being very much aggrieved by your order --- D.Dis. No. 6362-30 dated 10-8-1930 cancelling the eviction -- order in E.C. Nos. 174/39 and 198/39 of the Udipi Taluk --- We beg to represent the following and request reconsideration of the said order. So far back as 30-11-28, some of us --- submitted a petition to the Tahsildar of Udipi Taluk, ---- bringing to notice the obstruction caused by Nagaya Shetti etc. to the Mamul Channel leading to the river from the big irrigation tank called "Chavali Kere" and requesting to --- take steps either for ensuring the free flow of water in the channel by getting the obstruction removed, or for acquisition of a strip of land adjoining the river at our cost so as to - lead the channel direct to the river.

The Tahsildar after satisfying himself on local inspection and enquiry of the public nature and importance of the channel - and of the gennuiness of the petitioners' grievance, recommended institution of Eviction Proceedings against the author of the michief. On approval of the Tahsildar's proposal by the Sub - Collector, encroachment proceedings were taken against the -- obstruction caused to the channel. On Nagaya Shetty's appeal against the order of eviction, Your Honour has passed orders - without giving notice to us cancelling the eviction ----- proceedings. Thus to our great disappointment after prolonged enquiry of about two years, We find ourselves in the same position as when we filed the original petition without any of our alternative prayers being complied with.

The main grounds on which we pray for a reconsideration - of your orders are given

The channel in question runs accross the middle of the Village through bail fields and leads from - the big reservoir of water called " Chavalkere" --------- (about 4 acres in extent) to the river. It is the channel which irrigates the second paddy crop of the surrounding -- fields with the water stored in the " Chavalikere" and -- during the rain it serves as an outlet to drain off excess water to the river. The Chavalikere (a tank steined with granite slabs) and the channel originating from it are --- centuries old and owing to their existence the surrounding entire survey numbers 40,41,60,61,62 & 64 and the paddy --- fields in SNos. [redacted],63,&65 lying within the water spread --- of the channel have been classed as first class Wet at --- Rs 8-12-0 per acre while the other fields in the vicinity - are charged at Rs 5 & 6 at the settlement. A verification with the settlement register of the Village will prove this fact.

The channel being of such importance, the whole of it - aught to have been subdivided and registered as " Poromboke" but a small portion of it has been registered as " Poromboke" while its greater part is included in patta land. By its --- inclusion in patta, Government is a gainer to the extent --- of the amount of assessment charged at the wet or garden --- rate, as the case may be on the area or the channel included - in patta. To the same extent, the ryots have to pay assessment unnecessarily in addition to the higher rates payable ---- on the surrounding lands on account of the existence of the channel. Thus the ryots are at a double disadvantage by the - inclusion of the channel in patta and it was to be hoped that Government would atleast come to the help of the ryots in the proper maintenance of these sources of irrigation. So long as the irrigation sources remained undisturbed, the --- ryots were safe from trouble. But when one thinks of mischief -

and blocks up the passage of water, there arises the ---- crucial occasion to test how far Government will protect -- the mamul rights of the ryots. The present occasion afforded such an opportunity, but the summary way, in which the --- eviction proceedings were quashed by you, leaving the ryots -- to settle the matter among themselves has given rise to --- misgivings as to how such water rights could in future --- be rendered secure from mischivous persons. We humbly submit that apart from the merits of Nagaya Shetty s case - the order is neither fair nor equitable, considering the --- importance of the channel. If the matter was so --- trifling, the persons who signed the original petition would not have gone to the length of proposing the alternative course of acquisition of land, at their cost nor an experienced Tahsildar who inspected the locality could hardly be expected - to decide on recommending eviction proceedings against the --- obstruction to the channel if he was not fully satisfied of the important interests at stake.

There are two other similar tanks in the Village as shown in the enclosed sketch called " Arasinakere" and Benthikere" which are as old as Chavalikere. They are also --- important sources of irrigation by means of similar channels originating from the said tanks. These channels run entirely - through patta lands. But have been maintained in tact through centuries for want of a precedent to mischief makers. The --- present order if retained will serve as an encouragement to -- persons like Nagaya Shetty to molest any of the three channels at their will on the authority of the channel being in his -- patta land without fear of action from the Government, and We - have no hesitation in predicting a crop of strifes with occasional breaches of the peace among the inhabitants of the Village and distruction of crops owing to inundation.

As regards the merits of Nagaya Shetty's case We are ---- astonished to find that he has come out successful by presenting a bundle of lies inspite of the records of the elaborate enquiry for the ---

the last two years. The order seems to be based entirely on the false statements of Nagaya Shetty, which will not bear a moment's scrutiny at an inspection of the locality. We very much regret that Your Honour passed orders without notice to the petitioners and without inspection of the locality. If the locality was inspected either by you or the Sub Collector, the order, We are sure, would have been quite otherwise. The following facts would have emerged from such inspection -(a) that SNo. 63/18A far from being the bund of Nagaya Shetty's paddy field is a bund accross the mamul channel (b) that it does not contain cocoanut trees aged 25 years but only a plant about two years old (c) that the flow of water in the channel has been completely blocked up almost at the edge of the river by the bund referred to above and moreover Nagaya Shetty has since attempted to obliterate the channel itself in SNo. 63/8 by filling it up with sand (d) that Nagaya Shetty's family is the owner of SNos. 58/3,4,59/9 - 63/8,9 which forms the immediate locality where the channel has been blocked up so close to the river (e) that Simon Furtado is a tenant of Nagaya Shetty, whose family members were for sometime blocking up the course of the channel at different places and making fresh openings to the river which are still seen on the ground (f) that these tactics continued without objection by the Villagers owing to the land concerned belonging to Nagaya Shetty's family and owing to their opening fresh outlets to the river when the passage at a particular point was blocked up (g) that the petitioners objected only when the passage to the river was completely blocked up, notwithstanding the existence of the channel on the ground, and the channel water was diverted through SNo. 59 to another channel running to the south of SNo. 58/3 , ¾ of a furlong from the " Chavalikere cnannel, through a temporary thodu that existed on the ground. (h) that thereby there is danger to the adjoining lands in SNos. 59 & 58/5 owing to the rush of water in the rainy

5 5 5

season and that ifa bund be raised accross the connecting thodu --- in the north west corner of SNo. 59/8, there is danger of destruction of crop and life by innundation by the rise of water in the " Chavaliker channel". (i) that the southern channel starting from " Arasinakere" is a quite a different and independant channel and it is quite unreasonable to connect it with the " Chavalkere -- channel now. (j) that the cross thodu in SNo. 59 is not a mamul ---- channel but one temporarily dug for conveyance of sand - and silt to the adjoining lands. This will be evident from an inspection.

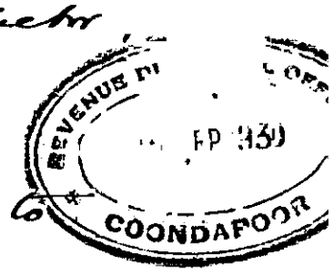
We humbly pray that the locality, which is close to the ---- Barkoor Bazar may be inspected with the connected records by your --- Honour or the Sub- Collector before passing final orders on this petition as we feel - sure in that case the eviction proceedings will be restored.

Valerin Peter Salvador Fernandes

S. N. Kamath.

Nlef A1 9000-30

Forwarded to the Sub Collector Coondapoor.



The Sub Collector is requested to inspect the plots in person, and submit an early with a plan with complete indication in Eng a detailed report as to whether any Govt interest or important public interests are affected by the encroachments & whether there are no other outlets for the water to empty itself into the river except through the channels referred to by the petitioners & encroached upon by Nagayya Shetty.

3 The parties interested should be invited to be present at the inspection.

for Collector

Y-19236-30

18/9/30

18-9-30

1/10/30

Nlef D-6446-30.

Forwarded to the Tahsildar of Udipi for immediate submission of the connected records

20/9/30

Sub-Collector.

Nos 19236-30

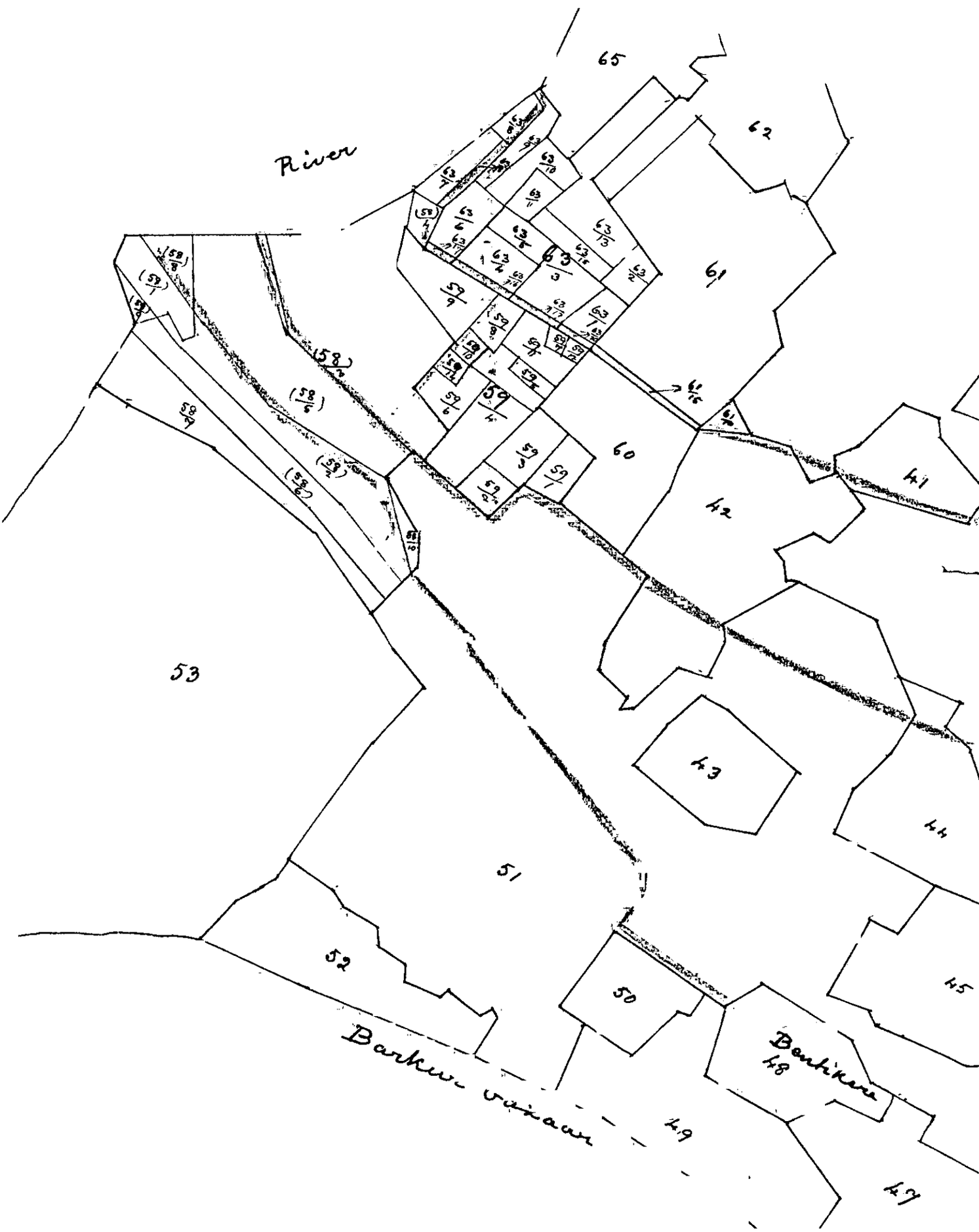
Resubmitted with the records of D Dis 2070-29 of 17.5.29 & the records Q-C 174-d 158/29

25/9/30

25/9/30.

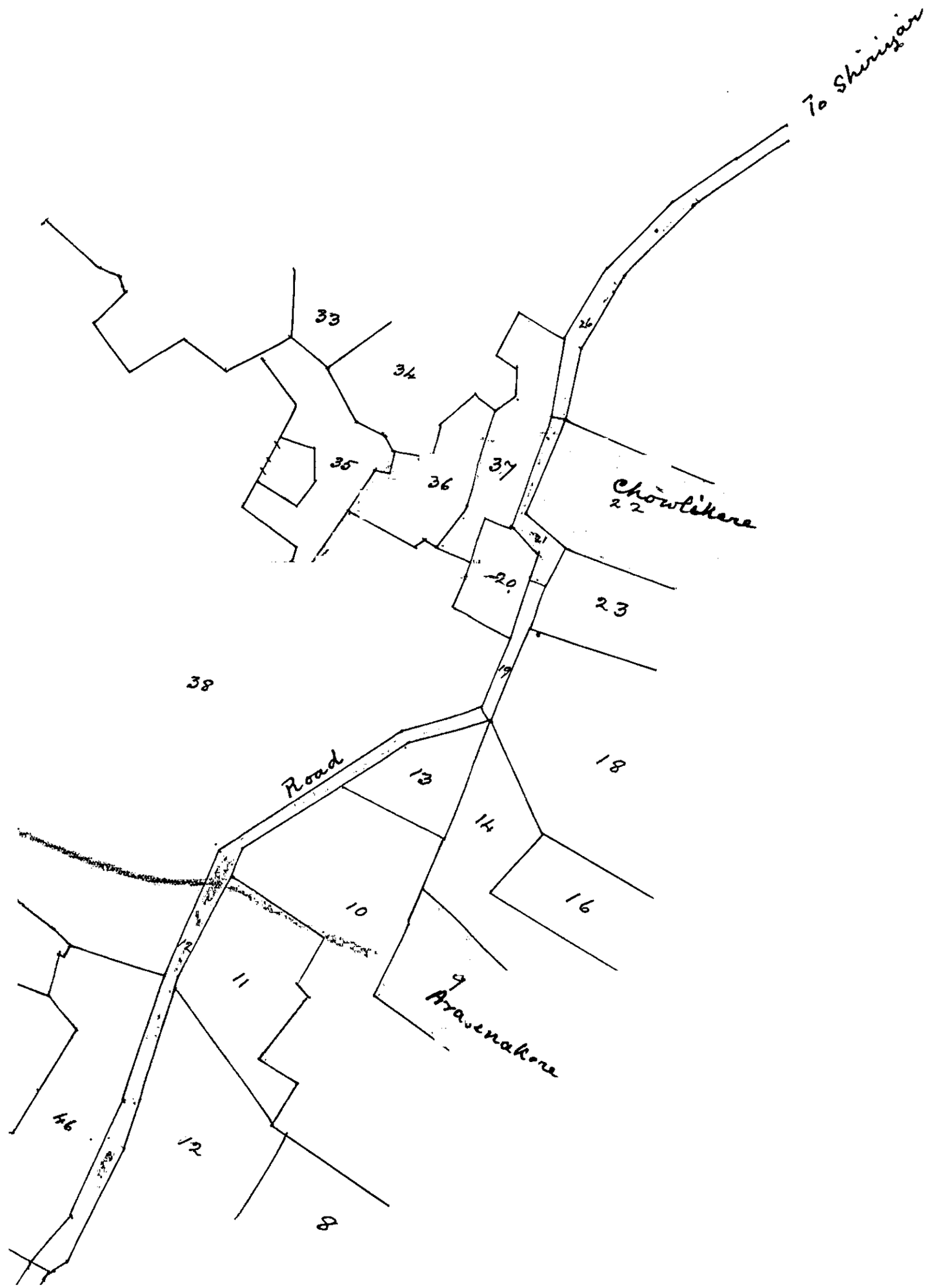
Udipi

Hosal


65
62
River
61
60
42
41
53
51
52
50
43
44
45
49
48
47
Bankur Vaikam
Bankur

Taluk

village



SUB-COLLECTOR
16 OCT 1930
UDUPI

9

Ref B-6446-30

Forwarded to the Tahsildar of Udupi for submission with a plan with complete index in English.

90/15-10

2028A-30

2. The notes of inspection and the connected records are enclosed for reference and return.

N.S. Anantharam
12
Sub-Collector
17/10/30

2/12.10.30

(Report 2028A-30 D)

Forwarded to the Revenue Inspector of Kota firka for submission of an eyesketch & with Complete index in English without delay.

2. The Sub-Collector's notes of inspn of the records of E C 184 & D Dis 2070-29 are enclosed for reference & return

39

Annapaiah
for Ranton
17/10/30

SUB-COLLECTOR
29 OCT 1930
UDUPI

17.10.3.

2106 9-30-00 D Dis 2R 483/30

Resubmitted to the Tahsildar of Udupi Taluk with a complete eyesketch and index showing the throden under reference as ordered. The course of the throden shown in the sketch enclosed to the revision petition is slightly wrong which has been correctly shown in the eyesketch now prepared. The connected records received with the above order are hereunto resubmitted

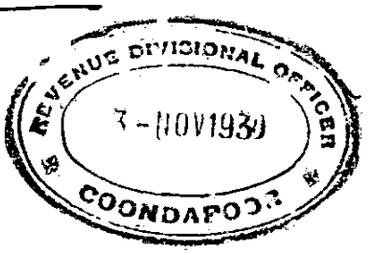
B Annappa
28.10.30.

No 20284-30

Resubmitted to the Sub-Collector with a query
desk in English together with the record of B.C 175
DD No 2079-29.

31.10.30.

29 to 30



Read over to the deponent and admitted.
he/she/they to be correct.

10/10/20

Sub Collector

L. Dis 6446-30 Sub-Collector's Office,
Coondapoor, dated 10-11-1930

From

N. S. Arunachalam, Esquire, M.A.,I.C.S.,
Sub-Collector, Coondapoor Division.

To

The Collector of
South Kanara.

Sir,

, Encroachments - Land - Udipi Taluk - Hosal village - S.nos 63-8B2 and 18A - Cancellation of eviction orders - vision petition - Your N.Ref A1-9000-30, dated 1[illegible]-9-30

10 NOV 1930
MANGALORE

Some ryots of Hosal village having submitted a petition on 30-11-1928, stating that an important and Mamool channel connecting the Chowlikere tank in Hosal village with the river had been blocked up by certain persons, the Tahsildar of Udipi held an enquiry in the matter and reported the result in his Ref.B2-2070-29, dated 28-8-29 recommending that ~~shops~~ steps might be taken to remove the encroachment on the channel existing in S.no. 63/8, a patta land. My predecessor Mr. Doig, approved his recommendation in his N.Dis 5492-29 dated 11-9-1929. The Tahsildar, after further enquiry, applied for eviction orders in respect of the encroachments in the channel in S.no. 63/8 and also in S.No. 63/18 a poramboke channel, which I granted. The petitioners now request the reconsideration of Collector's Order D.Dis 6862-30, dated 10-8-1930 passed in the appeal of encroacher, Nagaya Shetty under which the eviction orders were cancelled.

2 I inspected the locality on 10-10-1930. The parties were present. The channel is a long one, about a mile in length, leading from the Cholikere and emptying itself into the river. It is used both as a drain and as an irrigation channel for the first class wet lands on both sides. In the higher reaches the Thodu has been subdivided as such in many places but beginning from S.No. 61/15 the channel has been continuously subdivided throughout its course from that-

point till it joins the river. Only in three places in S.No. 58/4 and 63/8 & 9 it has not been so subdivided. There is no encroachment in S.No. 58/4 and the owner is willing to relinquish the portion covered by the actual channel. His statement to that effect is enclosed. The encroachment is in S.no 63/8 and consists in blocking the channel for about 50 yards and planting two cocoanut trees. The bund here is the one put across the channel and not the bund of his paddy field as claimed by the appellant. The encroachment is quite objectionable, there being no other exit for the water. The encroachment is certainly very recent. The cocoanut trees which have been planted are of about four years' growth, but on enquiry I find that he planted grown up cocoanut trees there last year, about which time the channel was also blocked up. The encroachment has resulted in the blocking up of an important one mile long channel just at its junction with the r ver and appears to me to be a fit case for action under the Land Encroachment Act.

3. A plan of the locality and the records of D.Dis 2070-29 and E.C. 174/39 of the Udipi Taluk Office are enclosed.

Your obedient servant,

For Sub-Collector.

Ref.A.1-9000/30. RP 144 South Kanara Collector's Office,

Mangalore, 21st January 1931.

From 15 B561

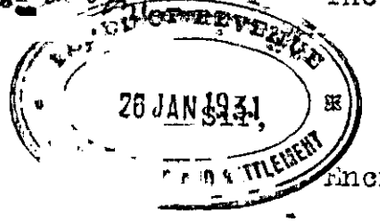
J.W.Wells, Esquire, M.A., I.C.S.,

Collector of South Kanara.

To

The Secretary to the Board,

Land Revenue and Settlement, Madras.



Encroachment - Land - Udipi Taluk - Hosal village - R.S.No. 63/8 & 18 - Eviction - Cancellation - Review petition.

I submit herewith the petition of some of the ryots of Hosal village, Udipi taluk, and also the Coondapur Sub -- Collector's report L.Dis. 6446-30, dated 10-11-30 thereon and have to state as follows.-

2. The petitioners request the reconsideration of my order D.Dis.No. 6362-30, dated 10-8-30 passed in the appeals of the encroacher Nagaya Shetti cancelling the order of eviction passed by the Sub Collector, Coondapur, in respect of the encroachments on mamul channels in S.Nos. 63/8 and 63/18 of Hosal village.

3. The proceedings under the Land Encroachment Act were instituted in this case by the Tahsildar of Udipi as he found that the channel was a mamul one and that therefore the -- encroachments were objectionable. The Revenue Divisional Officer also passed the order of eviction on this ground.

4. In connection with the appeals filed by the encroacher Nagaya Shetti, I perused the connected records. The records -- showed that S.No. 63/8 was already included in the holding of the encroacher Nagaya Shetti and that only S.No. 63/18 was -- sub-divided as a poramboke channel and that the alleged mamul channel mostly passed through holdings and that it was sub-divided as poramboke channel in only some places. The -- records also showed that such channels were also passing -- through other plots S.Nos. 58/3 & 4 and that they were blocked up about 8 years ago and that no action was taken in that -- matter. As the channels mostly passed through holdings and as they were blocked here and there by the adjoining wargdars

at their pleasure and no action was taken against those who blocked such channels previously, I thought it unnecessary to evict onl the appellant under the Land Encroachment Act and accordingly cancelled the order of eviction passed by the Sub Collector in view specially of the fact that there was no public representation -- against these encroachments. Please see my proceedings D.Dis.No. 6362-30, dated 10-8-30. Mh 17-19 of 2

5. It is for the reconsideration of my above order that -- some of the ryots have approached me with the petition. As the petition was a public representation from the ryots, I decided to send it to the Sub Collector for personal inspection and enquiry in the presence of the parties. The Sub Collector's present -- report L.Dis. 6446-30, dated 10-11-30 would show that the encroachments which consist of blocking the channel for about 50 yards and planting two cocoanut trees by putting up a bund across the -- channel are quite objectionable. There is no other exit for the -- water and the encroachments result in the blocking of an important channel, the length of which is a mile, just at its junction with the river. As the encroachments now form the subject of a public representation and are reported to be objectionable, I recommend that the Board may be pleased to cancel my proceedings D.Dis. -- 6362-30, dated 10-8-30 quashing the eviction order so that the -- encroacher may be evicted from the plots and the mamul channel -- restored to its proper condition. Mh 1-5 of Mh 13 2/4 of Mh 17-19 of 2

6. I enclose a sketch showing the full course of the channel and also the connected records noted in the margin for reference.

1.Huzur file D.Dis. 6362/30.
2.Taluk file D.Dis.2070/29.-
3.Taluk file E.C. 174/39.

Your obedient servant,

A. Krishnaswami
M 1431

for Collector.

R. P. XXII-A-19—89,500—22-4-30-(6)

Subject.—

FOR MEMBER Encroachment Land (S.Kanara) Udupi
Uk Hosal village
Survey - Cancellation of orders passed

READ AGAIN B. P. No. _____, dated _____ 193

" " " _____, " _____ 193

READ ALSO :—

Register No. _____ From the B 561/31-2, No. _____, dated _____ 193

" " _____, " " _____, " _____, " _____ 193

" " _____, " " _____, " _____, " _____ 193

RESOLUTION. (Mis) No. 504, dated 12-2 193

In the circumstances reported by the Collr. the Board cancels his proceedings dt. 1st ~~Feb~~ Jan no 6362/30, dt 1st Feb 1931

11.2.31

11.2.31

To

The Collr. of S. Kanara

with 3 records as per list rect.

16/2

R. 9. XXII-A-19—89,500, 22-4-30 (6)

Subject.—

FOR MEMBER Encroachment Land (S. Kanara) in Ur house of Erthi - Cancellation of orders passed.

READ AGAIN B. P. No. _____, dated _____ 193

" " " _____, " _____ 193

READ ALSO :—

Register No. _____, From the B 561/31-2, No. _____, dated _____ 193

" " _____, " " _____, " _____, " _____ 193

" " _____, " " _____, " _____, " _____ 193

RESOLUTION. (mis) No. 504, dated 12-2- 193

The Collr. the Board cancels his Proceedings D. Dis of no 6362/30, d. 10.8.1930

11/2/31

11.2.31.

12-2-

S. Kanara

with 3 records as per list ref

ENCROACHMENT – Land – (South Kanara) – Udipi Taluk – Hosal Village – R.S.Nos. 63/8 and 18 – Eviction – Cancellation – Review Petition.

S (M.S. & R) (with Sketch Rep. & drill plan)

B. 561/31 .. pp. 15 & 16 c.f.

TO A.S.

please see the Collector's letter at pp. 15 & 16 c.f.

2. The encroachments are said to be on the poramboke channel in S.No. 63/18 of Hosal Village and the 'mamul' channel in the private land S.No.63/8. The encroachment in S.No.63/18 consists of a bund across the channel, with cocoanut plants planted on it and that in S.No.63/8 consists of filling in the mamul channel with mud.

p17 & 18 of (2)

3. The Collector had ordered that no encroachment proceedings should be taken as no Government interest or important public interests were affected. Now he reports that the channel is an important one and requests that his orders may be cancelled.

p19 (2)

S 894 mins / 30522 (T)
S 2883 mins / 11224 (H)

4. The channel is not marked in the village plan; it may, however, be treated as an important one in the circumstances stated by the Collr. The point for orders is whether the filling in with mud in S.No.63/8 should be construed as

p16 of

That is no criterion for set up — S. Kar

A. Alf

an encroachment on the channel. In this connection, the Tahsildar's report at pp. 69-72 of (V) may be perused. The eye-sketch referred to therein is at p. 43 of the same file. The Tahr., held enquiry on a complaint from the ryots that the mamul channel passing through S.Nos.58/3 & 4 had been blocked up by the owner of S.No. 58/4. The enquiry showed that there was a channel along the northern side of S.Nos.58/4 and 3 that it was not reserved, by mistake, when the lands were assigned in 1913 and that it was blocked up about 7 or 8 years previously. Since then it was made to pass through S.No.63/18 and the channel existing in S.Nos.63/8 and 9, to join the river in S.No.136. When the Tahr., inspected, the channel was in tact as far as S.No. 63/18 to the north of which it had been obstructed by a dam of sand and silt put up across it and it was in tact as far as the river even after that obstruction. The owner of S.No.63/8 had filled up the channel portion with sand after inspection. The question is whether the course through S.Nos.63/18. 8 and 9 was the original course of the channel taking off from Chowlikere. In his appeal petition to the Collector, the owner of S.No.63/8 represented that there was no water course at any time through the land, but that there was only a depression in the ground caused by his removing earth during the construction of his house about 25 years ago. The Tahr., however, presumed that because

Paras 3 & 4. pp 69 & 70 of (V)

Para 5 - p 70 of (V)

p 72 of (S)

pp 9-12 of (Z)

S.No.63/18 was classed as poramboke channel at Settlement, there must have been a channel course in continuation in S.No.63/8 also. It is doubtful if this is sufficient evidence to go upon. It appears that a further enquiry on the encroacher's allegation in his appeal petition to the Collector referred to above is necessary, before it can be held that there was a mamul channel in S.No.63/8 and action taken under the Land Encroachment Act to remove the encroachment on it. If on enquiry it is found that there was no mamul channe the course open is only to acquire the land under the Land Acquisition Act, at the cost of the ryots interested.

For orders.

I do not know what office means by this – the Subbdn's visit after personal inspection clear enough in all previous reports (pp. 13-14 of 1932 S.Kan. channel that is important enough to be fairly continuously marcated for a mile is one – it will do a lot of damage to neighbouring fields if blocked – and the blocking – practically at its junction with the river Office has not even referred to subb's report – the most useful paper in the file

Coll's proc. of 10.8.30 may be cancelled. as he suggests